

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

* * *

HOBART CORPORATION, et al. ,

Plaintiffs,

vs. CASE NO. 3:13-cv-00115-WHR

THE DAYTON POWER AND

LIGHT COMPANY, et al. ,

Defendants.

* * *

Deposition of JOHN L. DAVIS, Witness
herein, called by the Plaintiffs for
cross-examination pursuant to the Rules of Civil
Procedure, taken before me, Michelle A. Elam, a
Notary Public in and for the State of Ohio, at the
offices of Sebaly, Shillito + Dyer, 1900 Kettering
Tower, 40 North Main Street, Dayton, Ohio, on
Thursday, the 12th day of September, 2013, at
10:04 a.m.

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|---|------------------|-----------|------|
| 1 | EXAMINATIONS | CONDUCTED | PAGE |
| 2 | BY MR. SILVER: | | 5 |
| 3 | BY MR. CAMPBELL: | | 49 |
| 4 | BY MR. SILVER: | | 63 |

| | | | |
|----|------------------------------------|--------|------|
| 6 | EXHIBITS | MARKED | PAGE |
| 7 | (Thereupon, Davis Exhibit Number 1 | | 13 |
| 8 | was marked for purposes of | | |
| 9 | identification.) | | |
| 10 | (Thereupon, Davis Exhibit Number 2 | | 21 |
| 11 | was marked for purposes of | | |
| 12 | identification.) | | |
| 13 | (Thereupon, Davis Exhibit Number 3 | | 41 |
| 14 | was marked for purposes of | | |
| 15 | identification.) | | |

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ALSO PRESENT:

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* * *

10:03:47

10:03:47 1 JOHN W. DAVIS
10:03:47 2 of lawful age, Witness herein, having been first
3 duly cautioned and sworn, as hereinafter
4 certified, was examined and said as follows:

5 CROSS-EXAMINATION

10:04:00 6 BY MR. SILVER:

10:04:00 7 Q. Hello , Mr. Davis .

10:04:02 8 A. How are you doing ?

10:04:03 9 Q. Can you give your full name for
10:04:05 10 the record ?

10:04:06 11 A. John Wesley Davis .

10:04:07 12 Q. Your address for the record ,
10:04:09 13 please ?

10:04:09 14 A. 117 Westboro Street.

10:04:13 15 Q. And that is in Dayton ?

10:04:15 16 A. Yeah .

10:04:16 17 Q. Have you ever had a deposition
10:04:21 18 before ?

10:04:21 19 A. (Witness shakes head back and
10:04:23 20 forth.)

10:04:23 21 Q. Given testimony of any kind ?

10:04:24 22 A. (Witness shakes head back and
10:04:25 23 forth.)

10:04:25 24 Q. So this is a new experience for
10:04:27 25 you ?

10:04:27 1 A. Yep .

10:04:27 2 Q. Hopefully your last ?

10:04:29 3 A. Yep .

10:04:30 4 Q. All right . Just -- I want to give
10:04:35 5 you just a few instructions and information
10:04:38 6 that will help in the deposition . One is, it's
10:04:42 7 important to answer questions out loud and not
10:04:47 8 shake your head yes or no so that both the
10:04:51 9 court reporter can get it and write it down ,
10:04:52 10 she's writing everything down that happens , and
10:04:55 11 for the people on the phone who can't see you .

10:05:02 12 The way this is going to work is
10:05:06 13 I'm going to ask questions . It's going to be a
10:05:09 14 question and answer period . You're here to
10:05:11 15 give answers to the questions to the best of
10:05:12 16 your knowledge . It's not a test . So if you
10:05:15 17 don't know an answer , as I'm sure you will let
10:05:18 18 us know , just say I don't know . If you don't
10:05:21 19 understand a question , if it's not stated well
10:05:24 20 and you can't figure out what I'm asking , just
10:05:28 21 ask me to rephrase it . If you don't hear it ,
10:05:30 22 ask me to repeat it .

10:05:32 23 It's important to wait until I
10:05:34 24 finish the question before you answer . You may
10:05:37 25 know the answer two or three words in, but the

10:05:40 1 court reporter doesn't want us talking over
10:05:42 2 each other . She can't -- she can't key punch
10:05:46 3 two people talking at the same time .

10:05:50 4 If you need a break at any time ,
10:05:52 5 let us know and we'll -- we can -- we can have
10:05:56 6 a break . And we might have just a break anyway
10:05:59 7 after an hour , hour and a half , something like
10:06:01 8 that .

10:06:03 9 This is a case about the south
10:06:05 10 Dayton dump . My clients are -- have reached
10:06:10 11 some agreements with the EPA to clean up the
10:06:12 12 dump , and we are asking for assistance from
10:06:19 13 other parties that we believe may have disposed
10:06:22 14 of waste there . That's what this lawsuit is
10:06:25 15 all about .

10:06:26 16 Can you tell me whether you were
10:06:30 17 ever an employee of The Dayton Power and Light
10:06:34 18 Company ?

10:06:34 19 A. Yes .

10:06:34 20 Q. And during what years ?

10:06:37 21 A. From '68 till 2001 .

10:06:42 22 Q. So that would be about
10:06:48 23 thirty-three years ?

10:06:50 24 A. Thirty-four .

10:06:51 25 Q. And just let me know a little bit

10:06:54 1 about your background . What was your date of
10:06:57 2 birth ?

10:06:58 3 A. 6-8-39 .

10:07:03 4 Q. Did you go to school in -- did you
10:07:06 5 grow up in -- where were you born ?

10:07:07 6 A. Dayton .

10:07:08 7 Q. Right in Dayton . You grew up
10:07:10 8 here ?

10:07:10 9 A. Yeah .

10:07:11 10 Q. Did you go to school here ?

10:07:12 11 A. Yes .

10:07:13 12 Q. What school did you go to ?

10:07:14 13 A. Roosevelt .

10:07:15 14 Q. Roosevelt ?

10:07:18 15 A. (Witness nods head up and down.)

10:07:19 16 Q. And after school , did you have any
10:07:21 17 jobs before you worked for Dayton Power and
10:07:24 18 Light?

10:07:24 19 A. Yeah . I operated a crane for
10:07:27 20 Ruben Iron & Metal.

10:07:28 21 Q. Okay . For how long did you do
10:07:30 22 that ?

10:07:31 23 A. About three years .

10:07:32 24 Q. Okay . So that would have been --
10:07:35 25 let's see , '39 was your birthday ?

10:07:38 1 A. (Witness nods head up and down.)

10:07:39 2 Q. Maybe '56 or '57, somewhere in
10:07:43 3 there?

10:07:50 4 A. I don't know .

10:07:52 5 Q. And what kind of company -- what
10:07:55 6 was the name of that company again ?

10:07:57 7 A. Scrap iron . Ruben Iron & Metal.

10:08:01 8 Q. What sort of work did they do?

10:08:03 9 A. Sold steel . Cut up steel .

10:08:05 10 Q. And where were they located ?

10:08:07 11 A. Just like Franklin .

10:08:08 12 Q. Oh, like Franklin Iron & Metal
10:08:11 13 who's represented here ?

10:08:12 14 A. In fact , I worked out there for a
10:08:14 15 while .

10:08:14 16 Q. You worked for Franklin ?

10:08:16 17 A. Yeah .

10:08:16 18 Q. What period of time ?

10:08:18 19 A. Right before I went to work for
10:08:20 20 Dayton Power and Light.

10:08:21 21 Q. Dayton Power and Light .

10:08:25 22 A. '6 -- had to be '67, '66.

10:08:28 23 Q. I'm curious about Franklin Iron &
10:08:35 24 Metal . What did you do for Franklin Iron &
10:08:38 25 Metal?

10:08:38 1 A. Just picked up scrap around the
10:08:40 2 yard .

10:08:40 3 Q. And did what with it?

10:08:42 4 A. They shipped it out , sold it to
10:08:45 5 somebody .

10:08:45 6 Q. So were you operating a piece of
10:08:47 7 equipment ?

10:08:47 8 A. No.

10:08:48 9 Q. Just helping out with --

10:08:49 10 A. Yard work .

10:08:50 11 Q. Now , when you started with Dayton
10:08:59 12 Power and Light in 1968 you said , what did you
10:09:01 13 do for them when you began working there ?

10:09:03 14 A. Drove a truck .

10:09:04 15 Q. Right away ?

10:09:05 16 A. Yep .

10:09:06 17 Q. Had you done any truck driving for
10:09:08 18 anyone before that ?

10:09:09 19 A. Yep .

10:09:09 20 Q. Who was that for ?

10:09:10 21 A. Ruben Iron & Metal.

10:09:14 22 Q. And what did you do in the truck
10:09:17 23 for Ruben Iron & Metal?

10:09:19 24 A. Haul steel .

10:09:20 25 Q. And where did you deliver it?

10:09:22 1 A. Pennsylvania Iron & Coal .

10:09:24 2 Franklin . Pennsylvania Iron & Coal and

10:09:30 3 Franklin .

10:09:30 4 Q. Was it a big truck you drove for
10:09:34 5 Ruben ?

10:09:34 6 A. Tandem .

10:09:35 7 Q. Now , back to DP&L , when you
10:09:45 8 started working for them , what sort of truck
10:09:46 9 were you driving ?

10:09:47 10 A. Tandem .

10:09:48 11 Q. Describe a tandem truck to me ,
10:09:50 12 just to make sure I have it in my mind .

10:09:53 13 A. It's got a set of four wheels in
10:09:56 14 the back .

10:09:56 15 Q. What's the total length of the
10:09:58 16 tandem truck that you drove when you started
10:10:00 17 driving for Dayton Power and Light
10:10:02 18 approximately ?

10:10:02 19 A. Approximately probably sixteen
10:10:12 20 foot .

10:10:12 21 Q. And that's plus the cab ?

10:10:14 22 A. Yeah .

10:10:16 23 Q. And where did you drive the tandem
10:10:18 24 for Dayton Power and Light when you started
10:10:21 25 with them ?

10:10:21 1 A. South Dayton dump . That's where
10:10:23 2 we dumped at .

10:10:24 3 Q. So you were hauling waste for
10:10:27 4 Dayton Power and Light at that time ?

10:10:30 5 MR. CAMPBELL: Objection to form .

10:10:31 6 THE WITNESS: Yeah .

10:10:32 7 Q. What was in -- we're still
10:10:34 8 starting off when you started driving this
10:10:36 9 tandem . What was in the truck ?

10:10:39 10 A. Ashes .

10:10:39 11 Q. Where did the ashes come from ?

10:10:41 12 A. Boilers .

10:10:42 13 Q. Which boilers ?

10:10:45 14 A. We had four boilers at Longworth .

10:10:49 15 Q. I see . So the boilers at
10:10:55 16 Longworth were the source of the ashes for what
10:10:58 17 was put into your tandem ?

10:10:59 18 A. Yep .

10:11:00 19 Q. Is -- is Longworth still around ?

10:11:08 20 MR. WINNE: The image, aerial image?

10:11:08 21 MR. SILVER: No . No . I'm talking to
10:11:10 22 him .

10:11:15 23 THE WITNESS: Nope .

10:11:19 24 Q. And where was Longworth located ?

10:11:21 25 A. Over back of Chaminade .

10:11:24 1 Q. Chaminade High School?

10:11:25 2 A. High school . In fact, they got
10:11:28 3 the field that it sit on, practice field .

10:11:31 4 Q. Where Longworth was is now a
10:11:35 5 practice field for Chaminade High School?

10:11:37 6 A. Yep .

10:11:37 7 Q. I grew up in Cleveland . So I knew
10:11:41 8 about Chaminade because it always had good --
10:11:44 9 good basketball teams . So does Roosevelt .

10:11:49 10 All right . Let's start with the
10:11:51 11 first exhibit . We're going to mark this as Davis
10:11:54 12 Exhibit Number 1 .

10:11:54 13 (Thereupon, Davis Exhibit Number 1
10:12:05 14 was marked for purposes of identification.)

10:12:05 15 Q. This is just something I pulled
10:12:07 16 off the Internet , Mr. Davis , and I thought I
10:12:09 17 would show it to you because I was having
10:12:12 18 difficulty finding a picture of the old
10:12:14 19 Longworth facility . Does that look familiar to
10:12:37 20 you ? I guess not .

10:12:40 21 A. That's the coal skip -- that's
10:12:42 22 Longworth .

10:12:43 23 Q. Did they ever call it the castle ?
10:12:46 24 Ever hear that ?

10:12:46 25 A. Yeah . Most people -- it looked

10:12:50 1 like a castle .

10:12:51 2 Q. And this got torn down at some
10:12:53 3 point ?

10:12:53 4 A. Yep .

10:12:54 5 Q. So this is when you were starting
10:12:59 6 at DP&L and driving the tandem , was this
10:13:02 7 facility , Longworth , the source of the ash that
10:13:04 8 you picked up ?

10:13:05 9 A. Yep .

10:13:06 10 Q. Did you pick up ash from any other
10:13:09 11 facilities of DP&L at that point in time ?

10:13:13 12 A. Third Street .

10:13:14 13 Q. Third Street . What was at Third
10:13:17 14 Street ?

10:13:17 15 A. Steam plant .

10:13:18 16 Q. And so you picked up ash in your
10:13:24 17 tandem from the steam plant at Third Street as
10:13:28 18 well as Longworth ?

10:13:28 19 A. Yes .

10:13:29 20 Q. Any other facilities of DP&L ?

10:13:32 21 A. Nope .

10:13:33 22 Q. What about Hutchings Station?

10:13:37 23 A. Nope .

10:13:37 24 Q. You didn't go there at that point
10:13:39 25 in time ?

10:13:40 1 A. (Witness shakes head back and
10:13:41 2 forth.)

10:13:41 3 Q. Did you ever go to Hutchings
10:13:43 4 Station to pick up ash or anything else ?

10:13:43 5 A. No.

10:13:45 6 Q. And what about Tate Station?

10:13:47 7 A. Nope .

10:13:48 8 MR. CAMPBELL: I'm sorry , say that
10:13:49 9 again .

10:13:49 10 Q. What about Tate Station ? You're
10:13:52 11 familiar with Tate Station?

10:13:54 12 A. Yep .

10:13:55 13 Q. But you never picked up anything
10:13:57 14 at Tate Station while you worked for DP&L ?

10:14:00 15 A. Nope .

10:14:00 16 Q. So far , we've talked about
10:14:02 17 Longworth and Third Street . Were there any
10:14:04 18 other -- and I'll just talk about the entire
10:14:06 19 time that you worked for DP&L . Were there any
10:14:11 20 locations where you picked up waste -- I'm
10:14:13 21 sorry -- picked up ash or other waste for DP&L ?

10:14:16 22 A. Nope .

10:14:17 23 Q. So simply Longworth and Third
10:14:19 24 Street for you ?

10:14:19 25 A. Yep .

10:14:20 1 Q. So now we're still talking about
10:14:27 2 when you started with DP&L and drove the
10:14:30 3 tandem . For how long did you drive the tandem
10:14:35 4 for DP&L ?

10:14:36 5 A. From '66 until '88 . From '68 to
10:14:44 6 '88 .

10:14:44 7 Q. Twenty years . '68 to '88 ?

10:14:48 8 A. (Witness nods head up and down.)

10:14:49 9 Q. Now , when you were picking up the
10:14:52 10 ash at Longworth , you mentioned you took it to
10:15:00 11 South Dayton dump ?

10:15:01 12 A. Yep .

10:15:02 13 Q. Did you take ash from Longworth to
10:15:05 14 South Dayton dump for those entire twenty years
10:15:07 15 that you drove the tandem ?

10:15:09 16 A. Yep .

10:15:10 17 Q. And you also mentioned you picked
10:15:14 18 up ash from Third Street ?

10:15:16 19 A. Yeah .

10:15:16 20 Q. And did you also take that to the
10:15:19 21 South Dayton dump ?

10:15:20 22 A. Yep .

10:15:20 23 Q. Did you pick it up from Third
10:15:22 24 Street and take it to the South Dayton dump for
10:15:25 25 the entire twenty years you drove the tandem ?

10:15:28 1 A. Yep .

10:15:28 2 Q. Can you tell me what frequency you
10:15:35 3 picked up ash from Longworth and took it to
10:15:38 4 South Dayton dump ?

10:15:38 5 A. Every day except weekends .
10:15:42 6 Sometime on weekends .

10:15:43 7 Q. Okay . Every day except weekends ,
10:15:46 8 but sometimes on weekends ?

10:15:48 9 A. (Witness nods head up and down.)

10:15:48 10 Q. And your answer is --

10:15:50 11 A. Yeah .

10:15:50 12 Q. How many times a day for weekdays
10:15:58 13 would you pick up?

10:15:59 14 A. It depended on how much was on the
10:16:02 15 boiler and how cold it was . I could run
10:16:04 16 fifteen loads a day .

10:16:05 17 Q. So you mentioned how cold it was .
10:16:13 18 I assume when it was colder , the steam plant
10:16:16 19 was running more and there was more ash ; is
10:16:16 20 that correct?

10:16:19 21 A. Yep .

10:16:19 22 Q. So it would be fifteen a day on
10:16:23 23 average for weekdays for you ?

10:16:26 24 A. No, not on the average . It
10:16:30 25 depended on how much load was on the boiler ,

10:16:33 1 how many boilers was running , how many was
10:16:35 2 done .

10:16:36 3 Q. What would be the range , would you
10:16:38 4 say , for a particular weekday ?

10:16:40 5 A. Probably about six loads .

10:16:47 6 Q. Would that be an average or range?
10:16:49 7 I mean, low to high , what would low to high be?

10:16:51 8 A. Probably about six loads .

10:16:53 9 Q. Is a low ?

10:16:54 10 A. Yeah .

10:16:55 11 Q. And what would be the high ?

10:16:57 12 A. Fifteen .

10:16:58 13 Q. And then occasionally on weekend s ,
10:17:00 14 they'd call you in?

10:17:01 15 A. Yeah . When it gets cold , you work
10:17:04 16 more in the winter time .

10:17:05 17 Q. So you might have to make some
10:17:07 18 extra runs on the weekends to get the ash out
10:17:09 19 of there?

10:17:10 20 A. Yeah .

10:17:10 21 Q. How did Longworth -- what did
10:17:13 22 Longworth -- how did Longworth get the ashes
10:17:18 23 out of the boilers to the truck ? How did that
10:17:22 24 occur ?

10:17:22 25 A. We had an electric truck with a

10:17:28 1 bed on it .

10:17:29 2 Q. Uh-huh .

10:17:30 3 A. And you pulled the doors down on
10:17:32 4 the boilers and it comes down in the bucket and
10:17:35 5 then you wheel it over to the ash skip , which
10:17:39 6 is that on the side there , and it had a big
10:17:43 7 bucket on it and it would take it up and dump
10:17:45 8 it in a green tank .

10:17:46 9 Q. And then the green tank would --
10:17:50 10 would dump it into your tandem ?

10:17:52 11 A. You had a chain with a gate on it ,
10:17:55 12 like a -- it had a door on the bottom of the
10:18:01 13 green tank that operated with a chain .

10:18:04 14 Q. And was the green tank elevated so
10:18:07 15 that it could pour into your truck ?

10:18:09 16 A. Yeah .

10:18:09 17 Q. Who did you work with -- we're
10:18:17 18 talking Longworth , right ?

10:18:20 19 A. Yeah .

10:18:20 20 Q. Who did you work with at Longworth
10:18:23 21 when you picked up the ash? Or did you do that
10:18:25 22 work yourself ?

10:18:26 23 A. I loaded myself .

10:18:27 24 Q. So that basically -- your job was
10:18:32 25 to load up , drive it over to the dump , and then

10:18:36 1 come back ?

10:18:37 2 A. Yep .

10:18:37 3 Q. You could do that several times a
10:18:40 4 day ?

10:18:40 5 A. Yep .

10:18:41 6 Q. Did you do anything else for DP&L
10:18:45 7 during that period of time ?

10:18:46 8 A. Help on maintenance . When there
10:18:49 9 wasn't no ashes to haul , you would help on
10:18:52 10 maintenance on the boilers .

10:18:53 11 Q. And this would be right at
10:18:55 12 Longworth ?

10:18:55 13 A. Yeah .

10:18:56 14 Q. Did you also do that at Third
10:18:58 15 Street ?

10:18:58 16 A. When I was driving a truck , no .

10:19:00 17 Q. Okay. Okay . We'll talk about
10:19:04 18 what you did later . If I showed you a map , do
10:19:18 19 you believe you'd be able to identify where the
10:19:21 20 South Dayton dump is ?

10:19:22 21 A. Probably .

10:19:23 22 Q. Let's give it a shot . Let's mark
10:20:00 23 this as Exhibit 2. This is actually an aerial
10:20:03 24 map . I misspoke . I'm going to put this in
10:20:05 25 front of you .

10:20:05 1 (Thereupon, Davis Exhibit Number 2
10:20:13 2 was marked for purposes of identification.)

10:20:13 3 Q. Let's see if you can recognize
10:20:15 4 what we're talking about here .

10:20:33 5 A. Where is Dryden Road?

10:20:37 6 Q. Can you see the river ?

10:20:39 7 A. Nope .

10:20:41 8 Q. Well, let me point out to you that
10:20:45 9 this looks like a river channel . Do you see
10:20:48 10 that ?

10:20:48 11 A. Yep .

10:20:49 12 Q. Do you see a bridge over the river
10:20:52 13 here (indicating)?

10:20:52 14 A. Yep .

10:20:54 15 Q. Does that help you?

10:20:55 16 A. You came across the bridge , it was
10:20:59 17 on the right-hand side .

10:21:01 18 Q. And are you referring to the South
10:21:07 19 Dayton dump ?

10:21:08 20 A. Yeah .

10:21:08 21 Q. Can you mark where you believe the
10:21:10 22 dump was with this red pen on Exhibit 2?

10:21:15 23 A. This thing is not clear .

10:21:27 24 Q. Do the best you can . Can you
10:21:29 25 locate the DP&L service building on this map ?

10:21:32 1 A. Probably over here (indicating) .

10:21:34 2 Q. Now , the buildings are usually in
10:21:37 3 white if you can --

10:21:46 4 A. Right there (indicating) .

10:21:47 5 Q. Do you know where the
10:21:50 6 transportation building , the garage is for
10:21:53 7 DP&L ?

10:21:54 8 A. Okay . Here we go . Storeroom and
10:21:57 9 everything up there (indicating) and garage was
10:21:59 10 down here (indicating) .

10:21:59 11 Q. Okay . Why don't you mark the
10:22:02 12 storeroom . Just put -- write storeroom right
10:22:05 13 on that where you pointed and garage where you
10:22:13 14 think the garage is .

10:22:16 15 A. (Witness complies with request.)

10:22:30 16 Q. Let the record reflect that the
10:22:32 17 witness is marking with a red pen on Exhibit 2 .

10:22:43 18 Okay . He wrote garage and storeroom
10:22:50 19 on the exhibit .

10:22:51 20 Q. And where do you believe the dump
10:22:53 21 was ?

10:22:53 22 A. It was across the street over here
10:23:01 23 (indicating) .

10:23:01 24 Q. Why don't you circle where the
10:23:03 25 dump is ?

10:23:04 1 A. This is not clear .

10:23:06 2 Q. You're having a little difficulty
10:23:08 3 with it, huh?

10:23:09 4 A. Yep .

10:23:10 5 Q. Let me ask you a question . We'll
10:23:24 6 get you a better map later . Let me ask you a
10:23:27 7 question . How did you approach the dump in
10:23:30 8 your tandem ? What road did you take in and
10:23:32 9 where did you make your turn ?

10:23:35 10 A. Came down Patterson -- came out of
10:23:39 11 Longworth -- Perry Street . Came out Perry
10:23:43 12 Street to Acker Street , turn right on Acker , go
10:23:46 13 down Acker to Ludlow . Turn right on Ludlow .
10:23:49 14 Go out Ludlow up to the Carillon Boulevard ,
10:23:54 15 make a right on Carillon Boulevard to Broadway .
10:23:59 16 Turn right on Broadway . Go up Broadway and
10:24:03 17 make a left into the dump .

10:24:04 18 Q. Okay . Okay . Sounds good . All
10:24:11 19 right . Now , when you went into the dump , did
10:24:13 20 you have to pass a gate ?

10:24:15 21 A. Yeah .

10:24:16 22 Q. And what was at the gate ?

10:24:18 23 A. Just a bar across it with a lock
10:24:23 24 on it .

10:24:23 25 Q. Did somebody come out to open the

10:24:26 1 lock for you ?

10:24:26 2 A. We had a key . The dump was
10:24:29 3 usually open on weekdays and half a day
10:24:32 4 Saturday . Other than that , if you had to dump
10:24:35 5 after that , you had the key .

10:24:38 6 Q. Now , did you yourself have a key ?

10:24:40 7 A. Yeah .

10:24:41 8 Q. Now , when you drove the tandem
10:24:43 9 truck to the dump , did you have anybody in
10:24:45 10 there with you ?

10:24:45 11 A. No.

10:24:47 12 Q. Always by your self ?

10:24:48 13 A. Not always . Unless you're taking
10:24:52 14 somebody down somewhere , to the garage or
10:24:53 15 something .

10:24:54 16 Q. You didn't need somebody to go to
10:24:57 17 the dump with you ?

10:24:57 18 A. No.

10:24:58 19 Q. You just occasionally took
10:25:00 20 somebody on a ride for DP&L ?

10:25:02 21 A. Yes .

10:25:03 22 Q. So you yourself had a key to the
10:25:05 23 dump , correct?

10:25:07 24 A. Yeah .

10:25:07 25 Q. Did you have that on the weekends

10:25:09 1 if you drove on the weekends ?

10:25:11 2 A. Yeah .

10:25:11 3 Q. So where did you keep the key ?

10:25:15 4 A. On my key chain .

10:25:16 5 Q. Uh-huh . And you kept it all the
10:25:19 6 time when you went home even ?

10:25:21 7 A. Yeah .

10:25:22 8 Q. There's nothing wrong with that .

10:25:25 9 I'm just curious . What did the key say on it ?

10:25:27 10 Do you remember ?

10:25:27 11 A. No.

10:25:29 12 Q. Did it have a number ?

10:25:30 13 A. I didn't pay that much attention
10:25:33 14 to the key .

10:25:33 15 Q. What was its shape ?

10:25:36 16 A. Like a door key , house key .

10:25:43 17 Q. And who gave you that key ?

10:25:45 18 A. My supervisor .

10:25:47 19 Q. And who's your supervisor ?

10:25:49 20 A. Paul Reneke .

10:25:51 21 Q. Paul Reneke ?

10:25:52 22 A. Yep .

10:25:53 23 Q. How do you spell his last name ?

10:25:55 24 A. I do not know .

10:25:56 25 Q. Is he still alive ?

10:25:59 1 A. No .

10:25:59 2 Q. Was he your supervisor the entire
10:26:01 3 time you drove the tandem ?

10:26:03 4 A. Yeah . No , he wasn't . He died .

10:26:07 5 Q. Say that again .

10:26:08 6 A. He died . A guy named Shellhouse
10:26:12 7 took over . Dave Shellhouse.

10:26:15 8 Q. Is he still alive ?

10:26:17 9 A. Yes .

10:26:18 10 Q. Do you know if he lives in Dayton ?

10:26:19 11 A. In West Milton .

10:26:21 12 Q. Do you have any idea how old he
10:26:23 13 is ?

10:26:23 14 A. Seventy -four .

10:26:25 15 Q. Somebody you see every so often ?

10:26:28 16 A. Yep .

10:26:28 17 Q. Does he -- he would be retired
10:26:36 18 then ?

10:26:37 19 A. Yeah .

10:26:38 20 Q. What was the color of your tandem ?

10:26:41 21 A. Brown .

10:26:42 22 Q. Sort of like a UPS truck brown ?

10:26:47 23 A. Yeah .

10:26:48 24 Q. Did it have to get painted

10:26:52 25 occasionally ?

10:26:53 1 A. Not really .

10:26:54 2 Q. Was the truck you drove for DP&L
10:26:58 3 always a brown truck ?

10:26:59 4 A. Yeah . No . They bought one in
10:27:04 5 '77 , I think .

10:27:04 6 Q. And what kind of truck was -- I'm
10:27:07 7 sorry . Go ahead .

10:27:09 8 A. International white truck .

10:27:10 9 Q. Was it the same size as the --

10:27:16 10 A. Yeah .

10:27:17 11 Q. Same size as the brown truck ?

10:27:20 12 A. Yes .

10:27:20 13 Q. Did you ever drive the
10:27:21 14 International white truck ?

10:27:23 15 A. Yeah .

10:27:23 16 Q. For your last year or so ?

10:27:25 17 A. Yep .

10:27:26 18 Q. Driving the truck , I mean.

10:27:28 19 A. Yeah .

10:27:29 20 Q. So we were saying when you got to
10:27:48 21 the dump , you went through the gate . It either
10:27:50 22 was open or you got out and unlocked it
10:27:53 23 yourself ?

10:27:53 24 A. Yeah .

10:27:54 25 Q. How would you know where to dump

10:27:57 1 the ash in your truck ?

10:27:58 2 A. There was spots where you dumped

10:28:03 3 it at. You made different spots where you'd go
10:28:06 4 dump .

10:28:06 5 Q. And that change d over time ; is
10:28:09 6 that right ?

10:28:10 7 A. Yeah .

10:28:10 8 Q. Did you ever meet anybody at the
10:28:12 9 dump while you were there?

10:28:14 10 A. Meet anybody ?

10:28:15 11 Q. Let me ask it a little
10:28:18 12 differently . The people that ran the dump , did
10:28:20 13 you ever talk with them ?

10:28:23 14 A. Yeah .

10:28:24 15 Q. And who were they ?

10:28:25 16 A. Lacine Grillot and Kenny Grillot .

10:28:34 17 Q. Lacine and Kenny ?

10:28:37 18 A. Yeah .

10:28:37 19 Q. Do you know if they were brothers ?

10:28:39 20 A. Yeah .

10:28:40 21 Q. Did they tell you where to dump or
10:28:43 22 did you -- well , did they ever tell you where
10:28:45 23 to dump the ash ?

10:28:47 24 A. Yeah .

10:28:47 25 Q. If I understand you correctly , did

10:28:51 1 you -- were there times when you knew where to
10:28:54 2 dump it without being told ?

10:28:55 3 A. Yeah .

10:28:56 4 Q. Anyone else at the dump that you
10:29:01 5 ever interacted with ?

10:29:01 6 A. No.

10:29:04 7 Q. Just those two ?

10:29:05 8 A. Yeah , just those two . Other
10:29:08 9 drivers from Delco would come in .

10:29:10 10 Q. Drivers from Delco ?

10:29:12 11 A. Yeah .

10:29:13 12 Q. Any drivers from -- any other
10:29:15 13 drivers from DP&L ?

10:29:17 14 A. Yeah .

10:29:19 15 Q. Go ahead .

10:29:26 16 A. Gas construction . Mostly just gas
10:29:28 17 construction .

10:29:29 18 Q. Okay . Tell me about gas
10:29:31 19 construction . Who -- who drove for gas
10:29:37 20 construction ?

10:29:37 21 A. We had a bunch of people drive for
10:29:41 22 gas construction . I don't even know their
10:29:43 23 names .

10:29:43 24 Q. Do you remember any of their
10:29:45 25 names ?

10:29:48 1 A. No. It's been too long .

10:29:49 2 Q. It's all right . What -- what kind
10:29:52 3 of trucks did gas construction have ?

10:29:54 4 A. Dump trucks . Six -yard , seven -yard
10:30:00 5 dump trucks .

10:30:01 6 Q. More than one ?

10:30:02 7 A. They had a lot of them .

10:30:05 8 Q. Do you got an approximation of how
10:30:09 9 many ?

10:30:09 10 A. Not really . There was a bunch .

10:30:10 11 Q. More than -- more than three ?

10:30:13 12 A. Yeah , more than ten .

10:30:14 13 Q. More than ten . Okay . Did they
10:30:17 14 have a special look to them ?

10:30:19 15 A. Back then , they had a front-end
10:30:22 16 loader on them .

10:30:23 17 Q. Front-end loader from gas
10:30:25 18 construction ?

10:30:27 19 A. Yeah .

10:30:28 20 Q. When you say back then , what
10:30:30 21 period of time are we talking about ?

10:30:32 22 A. Back in the '70s , '80s .

10:30:34 23 Q. And you drove your tandem when --
10:30:37 24 from '68 to '88 ; is that right ?

10:30:40 25 A. Yeah .

10:30:40 1 Q. So '70s and '80s , you saw dump
10:30:45 2 trucks from gas construction with front -end
10:30:47 3 loaders ?

10:30:47 4 A. Yeah .

10:30:48 5 Q. Can you describe the size of the
10:30:50 6 dump truck ? Do you have a sense of --

10:30:52 7 A. Probably about a six -yard dump
10:30:58 8 truck .

10:30:58 9 Q. And you think there were more than
10:31:00 10 ten of them ?

10:31:00 11 A. Yeah .

10:31:01 12 Q. What did the gas construction
10:31:03 13 people haul in those dump trucks ?

10:31:05 14 A. Stuff that they dug up out of the
10:31:09 15 streets when you're putting gas lines and stuff
10:31:12 16 in .

10:31:12 17 Q. Around the city , around the
10:31:14 18 service area ?

10:31:15 19 A. Yeah .

10:31:15 20 Q. How -- do you have a sense of how
10:31:18 21 frequently you would see the gas construction
10:31:20 22 dump trucks over at DP&L -- I'm sorry -- over
10:31:24 23 at the South Dayton dump ?

10:31:26 24 A. See them every day .

10:31:27 25 Q. Any other , during your time

10:31:36 1 operating the tandem , running the tandem , any
10:31:38 2 other DP&L trucks that you knew of coming into
10:31:42 3 South Dayton dump ?

10:31:43 4 A. Nope .

10:31:43 5 Q. So it was gas construction and fly
10:31:48 6 ash .

10:31:48 7 A. Yeah .

10:31:48 8 Q. Anyone else haul the fly ash from
10:31:51 9 the various DP&L stations ?

10:31:54 10 MR. CAMPBELL: I'll object to the
10:31:55 11 form of the question .

10:31:56 12 Q. Do you know if anyone else hauled
10:32:00 13 the fly ash ?

10:32:01 14 A. The coal handlers when I was on
10:32:04 15 vacation or off sick .

10:32:05 16 Q. And do you know who had your job
10:32:12 17 of driving the tandem , hauling the fly ash ,
10:32:16 18 prior to when you started ?

10:32:18 19 A. Charlie -- Charlie Fields . I
10:32:29 20 think it was Charlie Fields.

10:32:31 21 Q. And Charlie Fields is still alive ?

10:32:34 22 A. Yeah .

10:32:34 23 Q. Still working for Dayton Power and
10:32:37 24 Light?

10:32:37 25 A. Yeah .

10:32:37 1 Q. And what about after you stopped
10:32:39 2 driving the tandem for DP&L? Who picked up
10:32:42 3 your job?

10:32:49 4 A. What was his name? Ed Johnson .

10:32:53 5 Q. Are you familiar with an
10:32:55 6 Ed Jackson ?

10:32:56 7 A. Jackson .

10:32:57 8 Q. Is that the right name?

10:32:58 9 A. Yeah .

10:32:59 10 Q. He's the fellow that picked up
10:33:00 11 your job after you?

10:33:01 12 A. Yeah .

10:33:02 13 Q. Do you know if Ed is still alive?

10:33:02 14 A. No.

10:33:06 15 Q. Passed on?

10:33:06 16 A. Yeah .

10:33:07 17 Q. And do you know who took on the
10:33:11 18 job after Ed Jackson ?

10:33:13 19 A. A bunch of people was driving it
10:33:18 20 after him. I don't think they hired somebody .
10:33:22 21 Just picked somebody out to drive, coal
10:33:25 22 handlers .

10:33:26 23 Q. Say that again .

10:33:27 24 A. Coal handlers , when they got
10:33:29 25 through with their job , they would haul .

10:33:31 1 Q. And coal handlers worked right at
10:33:34 2 the plant , at Longworth ?

10:33:35 3 A. Yeah .

10:33:36 4 Q. And at Third Street as well ?

10:33:43 5 A. Yeah .

10:33:43 6 Q. Do you have any knowledge about
10:33:53 7 whether DP&L had a dump truck that went from
10:33:57 8 the service building right across the street to
10:34:03 9 South Dayton dump ?

10:34:03 10 A. They probably did , but I wouldn't
10:34:10 11 know .

10:34:10 12 Q. You never saw a dump truck coming
10:34:12 13 from the service building when you were at the
10:34:14 14 dump ?

10:34:14 15 A. Well , that's where gas
10:34:17 16 construction was so you had them coming in and
10:34:19 17 out all day .

10:34:19 18 Q. Gas construction was based at the
10:34:22 19 service building ?

10:34:22 20 A. Yeah .

10:34:23 21 Q. Okay . I got it .

10:34:51 22 Did you ever get a dumping receipt or
10:34:53 23 ticket at the dump when you dumped your loads ?

10:34:53 24 A. No .

10:34:58 25 Q. Did you ever pay any money to the

10:35:01 1 Grillots or anyone at the dump when you dumped
10:35:04 2 a load ?

10:35:04 3 A. I didn't .

10:35:05 4 Q. Do you know how that was arranged ?

10:35:06 5 A. Through the company . I guess
10:35:10 6 they'd pay it once a month .

10:35:12 7 Q. Did you ever see -- what -- what
10:35:19 8 information made you think it was a monthly
10:35:20 9 payment ?

10:35:21 10 A. I wouldn't know .

10:35:21 11 Q. That's just what you figure d?

10:35:23 12 A. Yeah .

10:35:24 13 Q. So that wasn't something you
10:35:26 14 needed to handle ?

10:35:28 15 A. No .

10:35:28 16 Q. And you had that key . Did you
10:35:30 17 ever give that key up , give it back to your
10:35:33 18 supervisor ?

10:35:34 19 A. Yeah , when I switched jobs .

10:35:36 20 Q. Uh-huh . Okay . Now , after the
10:36:27 21 1988 -- you mentioned that you were the tandem
10:36:29 22 driver from '68 to '88 . What did you do next
10:36:33 23 for DP&L ?

10:36:34 24 A. Repairman .

10:36:35 25 Q. And what kind of repair work did

10:36:42 1 you do ?

10:36:42 2 A. Tubes and boilers , turbines ,
10:36:48 3 pumps .

10:36:48 4 Q. Was this right at Longworth ?

10:36:51 5 A. Yeah .

10:36:51 6 Q. Did you also do any repair work at
10:36:54 7 the Third Street facility ?

10:36:55 8 A. Yeah .

10:36:56 9 Q. Any other facilities ?

10:36:57 10 A. Nope .

10:36:58 11 Q. So you were -- did you have a
10:37:03 12 toolbox ?

10:37:03 13 A. Yeah .

10:37:04 14 Q. And you did what was needed around
10:37:06 15 the -- around the power plant ?

10:37:08 16 A. Yep .

10:37:09 17 Q. How long did you do that work ?

10:37:11 18 A. From '88 , '89 up until 2001 .

10:37:18 19 Q. Until you --

10:37:20 20 A. Until I retired .

10:37:21 21 Q. After the thirty-four years ?

10:37:22 22 A. Yeah .

10:37:23 23 Q. Any involvement in waste disposal
10:37:28 24 from Longworth or Third Street during that
10:37:31 25 period of time ?

10:37:31 1 A. No.

10:37:59 2 Q. Did you mention the tandem truck
10:38:04 3 was a GMC ?

10:38:06 4 MR. CAMPBELL: Objection to
10:38:06 5 foundation .

10:38:07 6 THE WITNESS: Yeah .

10:38:07 7 Q. Do you know -- I just wondered if
10:38:10 8 you know what year the truck was made ?

10:39:06 9 A. No.

10:39:06 10 MR. SILVER: All right . Can we take
10:39:08 11 about a ten-minute break , see if I can get a
10:39:11 12 better map for you .

10:48:59 13 (Thereupon, a break was had.)

10:49:03 14 Q. Just curious about Longworth . You
10:49:07 15 hauled your tandem truck , filled it up with ash
10:49:10 16 from the -- you testified from the boilers .
10:49:14 17 Did any other waste get produced by Longworth
10:49:21 18 that you're aware of and are you aware of how
10:49:25 19 it left the site ?

10:49:26 20 A. Maybe some wood and stuff , but
10:49:32 21 other than that , no . Wood and paper .

10:49:35 22 Q. Wood and paper . What about just
10:49:37 23 typical daily trash from the cafeteria -- from
10:49:41 24 the office or whatever , you know .

10:49:43 25 A. You can burn that in the boilers .

10:49:45 1 Q. Uh-huh . But other than -- but
10:49:50 2 would that wood also go into your truck for
10:49:52 3 hauling away ?

10:49:53 4 A. Mostly Fourth Street hauled it
10:49:55 5 because they had a front-end loader that could
10:49:58 6 come in and load it and take it .

10:49:59 7 Q. You say Fourth Street ?

10:50:01 8 A. Yes .

10:50:02 9 Q. We talked about Third Street ,
10:50:05 10 right ?

10:50:05 11 A. Yeah .

10:50:05 12 Q. What was Fourth Street ?

10:50:07 13 A. They repaired meters , steam
10:50:18 14 meters , and checked pipes that run along the
10:50:23 15 street and everything .

10:50:23 16 Q. Repaired them right over on Fourth
10:50:27 17 Street ?

10:50:27 18 A. Yeah .

10:50:27 19 Q. Was that during your entire time
10:50:30 20 based at Longworth ?

10:50:31 21 A. Yeah .

10:50:33 22 Q. And they had a front-end loader at
10:50:35 23 Fourth?

10:50:35 24 A. Front-end loader and backhoe .
10:50:37 25 They dug up steam pipes and repaired them .

10:50:44 1 Expansion joints .

10:50:45 2 Q. That front-end loader would come
10:50:48 3 by Longworth and pick up wood ?

10:50:51 4 A. Yeah .

10:50:51 5 Q. Do you know where that front-end
10:50:53 6 loader took the waste ?

10:50:55 7 A. South Dayton .

10:50:56 8 Q. Same location ?

10:50:57 9 A. Yeah .

10:50:58 10 Q. Who drove the front-end loader for
10:51:01 11 Fourth Street ?

10:51:02 12 A. I'm seventy -four years old .

10:51:10 13 Q. Now we are testing you .

10:51:14 14 A. Yeah , because they got -- he quit
10:51:17 15 and went to Las Vegas . I can't remember the
10:51:25 16 name .

10:51:25 17 Q. He moved to Las Vegas , did you
10:51:29 18 say ?

10:51:29 19 A. Yeah .

10:51:31 20 Q. Still alive ?

10:51:32 21 A. I don't know .

10:51:32 22 Q. How old would you say the guy was ?

10:51:34 23 A. Probably in his forties .

10:51:36 24 Q. Forties back then ?

10:51:38 25 A. Yeah .

10:51:39 1 Q. Okay . And that was at least
10:51:43 2 twenty some years ago , right ?

10:51:46 3 A. Yeah .

10:51:47 4 Q. Okay . All right . If you think of
10:51:49 5 his name before we're done --

10:51:52 6 A. Hasting Pane .

10:51:53 7 Q. Say that again .

10:51:55 8 A. Hasting Pane.

10:51:56 9 Q. Hasting , his first name ?

10:51:58 10 A. Pane.

10:51:59 11 Q. P A N E ?

10:52:01 12 A. Yeah .

10:52:01 13 Q. And you think he moved out to Las
10:52:05 14 Vegas ?

10:52:05 15 A. Yeah .

10:52:05 16 Q. Did he get a job out there ?

10:52:07 17 A. Yeah .

10:52:07 18 Q. Do you know what kind ?

10:52:09 19 A. No .

10:52:09 20 Q. You mentioned Ed Jackson had
10:52:13 21 passed away ?

10:52:14 22 A. Yeah .

10:52:14 23 Q. What kind of frequency did the
10:52:19 24 Fourth Street , if you know , front-end loader
10:52:26 25 take trips to South Dayton ?

10:52:29 1 A. Practically every day .

10:52:30 2 Q. Do you think more than --

10:52:32 3 A. Every day . Longworth , Fourth
10:52:34 4 Street and steam was tied together . And Third
10:52:37 5 Street was tied together . It was all steam .

10:52:39 6 Q. Uh-huh .

10:52:41 7 A. All of them worked together .

10:52:42 8 Q. Fourth Street had a steam plant as
10:52:44 9 well ?

10:52:45 10 A. No. They had a repair shop .
10:52:47 11 Repaired meters and repaired the lines in the
10:52:50 12 street .

10:52:50 13 Q. But those three facilities ,
10:52:52 14 Longworth , Third Street , and Fourth Street
10:52:54 15 worked together in terms of waste ?

10:52:56 16 A. Yeah .

10:52:56 17 Q. Did that front-end loader that
10:53:01 18 came out of Fourth Street that went down to the
10:53:04 19 dump every day , did it make more than one trip
10:53:06 20 a day , do you know ?

10:53:08 21 A. It probably did . It was working
10:53:11 22 on the street .

10:53:11 23 Q. All right . I wanted to show you
10:53:21 24 different -- hopefully a little more clear .

10:53:21 25 (Thereupon, Davis Exhibit Number 3

10:53:42 1 was marked for purposes of identification.)

10:53:42 2 Q. We're going to put in front of
10:53:44 3 you , Mr. Davis , another aerial photograph ,
10:53:49 4 maybe a little bit more clear . It's got some
10:53:52 5 streets marked on it . See if you can find the
10:53:59 6 roads you want to look at .

10:54:19 7 A. This is Dryden (indicating) . The
10:54:41 8 dump would be back in here (indicating) .

10:54:44 9 Q. Can you circle -- you've got that
10:54:47 10 red pen where you were pointing . Circle where
10:54:49 11 you were pointing and write in dump . You just
10:54:57 12 mentioned the service building . Can you write
10:55:00 13 in service building there with your red pen so
10:55:03 14 we know what you're referring to?

10:55:06 15 A. Let me get my funny looking
10:55:08 16 glasses out .

10:55:09 17 Q. Let the record reflect that he's
10:55:12 18 pulling out his funny looking glasses .

10:56:02 19 A. Hmm . This is Dryden Road
10:56:04 20 (indicating) . So the dump had to be back in
10:56:18 21 here (indicating) .

10:56:26 22 Q. Let the record reflect that he
10:56:28 23 wrote -- did you just write in dump there?

10:56:32 24 A. Yeah .

10:56:32 25 Q. Can you put a circle around there

10:56:34 1 so it would be a little easier to see?

10:56:37 2 A. (Witness complies with request.)

10:56:38 3 Q. You mentioned the service

10:56:39 4 building . Can you put a circle around where

10:56:42 5 the service building is?

10:56:43 6 A. Right here (indicating) .

10:56:44 7 Q. Can you write service building

10:56:46 8 where you think the service building was?

10:56:48 9 A. How do you spell service ?

10:56:54 10 Q. S E R V I C E. And the garage ,

10:57:07 11 you identified that previously . Do you see the

10:57:09 12 garage ?

10:57:09 13 A. Down here (indicating) .

10:57:11 14 Q. Write garage next to -- are you

10:57:13 15 referring to that black -- black building

10:57:16 16 there ? Is that what you're referring to as the

10:57:19 17 garage ? It's been a while , hasn't it?

10:57:30 18 A. Yep . It's got to be -- yeah ,

10:58:07 19 that's got to be the garage (indicating) . Have

10:58:22 20 to be .

10:58:23 21 Q. Now , I want you to go back to

10:58:25 22 Exhibit 1 , this bigger one that was a little

10:58:28 23 more difficult for you to see . And comparing

10:58:38 24 the two , now that you've got your glasses on ,

10:58:40 25 hopefully you'll be able to see better , I want

10:58:45 1 to have you look at the buildings that you
10:58:47 2 marked as the garage -- let's do it so they're
10:58:52 3 facing the same way on each of the -- on
10:58:55 4 Exhibit 1 -- I'm sorry -- on Exhibit 2 and 3,
10:58:58 5 and the service building and make sure you --

10:59:01 6 A. The garage was south of the
10:59:02 7 service building .

10:59:03 8 Q. Right . So where would -- would
10:59:09 9 this have been the garage or the service
10:59:12 10 building (indicating) ? I'm pointing to Exhibit
10:59:14 11 2 now . I just want to make sure we clear up
10:59:16 12 the confusion here . Do you see what I'm
10:59:19 13 talking about ?

10:59:19 14 A. Yeah . This was probably the
10:59:27 15 service building (indicating) . It's hard to
10:59:31 16 tell on these pictures .

10:59:33 17 Q. All right . Well , that's fine .
10:59:34 18 We'll leave it as it is and -- was the service
10:59:42 19 building bigger than the garage ?

10:59:43 20 A. Yeah .

10:59:44 21 Q. So does that help if I help you --

10:59:47 22 A. That's the reason why I think
10:59:49 23 that's the service building .

10:59:50 24 Q. And what about that (indicating)?

10:59:51 25 A. That would be the service

10:59:53 1 building .

10:59:53 2 Q. Okay . So why don't you correct
10:59:55 3 what you put on Exhibit 2, which is the bigger
11:00:00 4 one , and write in service building as to the
11:00:03 5 building that you thought was the service
11:00:05 6 building and garage , what you thought was the
11:00:09 7 garage .

11:00:10 8 A. (Witness complies with request.)

11:00:29 9 Q. Let the record reflect that he is
11:00:32 10 writing where the service building and garages
11:00:37 11 are -- garage is on Exhibit 2.

11:00:47 12 A. That's the best I can do .

11:00:48 13 Q. Just a couple other questions for
11:00:50 14 you and then I'm going to pass the baton . We
11:00:57 15 talked a little earlier about drivers for the
11:01:01 16 gas construction and you couldn't remember any
11:01:04 17 names when I asked you earlier . I'm just
11:01:07 18 wondering , now that you've had a few more
11:01:09 19 minutes thinking about something else , whether
11:01:13 20 anything is coming back to you .

11:01:19 21 A. No , because we didn't deal with
11:01:21 22 them that much .

11:01:21 23 Q. You just saw them at the dump ?

11:01:24 24 A. Yep .

11:01:25 25 Q. Maybe on the road occasionally ?

11:01:27 1 A. Yeah .

11:01:28 2 Q. All right . Then a couple other
11:01:31 3 questions that I wanted to ask you . The Judge
11:01:33 4 in the case is somewhat interested in the
11:01:35 5 health of the witnesses . And we had made a
11:01:42 6 mistake by saying based on your conversations
11:01:46 7 with our investigator that you were a smoker .
11:01:48 8 You're not a smoker now , are you ?

11:01:48 9 A. No.

11:01:52 10 Q. And I understand , is it correct ,
11:01:57 11 that you haven't smoke d since 1986 or '87 ?

11:02:02 12 A. Yeah .

11:02:03 13 Q. Were you a smoker prior to then ?

11:02:05 14 A. Yes .

11:02:06 15 Q. From when ?

11:02:07 16 A. From eighteen --

11:02:10 17 Q. Until '86 or '87 ?

11:02:13 18 A. Yeah .

11:02:13 19 Q. And when the investigator visited
11:02:15 20 you and he walked into your house , did he see
11:02:24 21 cigarette butts in an ashtray ?

11:02:27 22 A. Probably did .

11:02:29 23 Q. And that's not from you ?

11:02:29 24 A. No.

11:02:31 25 Q. That would be from someone else in

11:02:33 1 your household ?

11:02:34 2 A. Yeah .

11:02:36 3 Q. That would be from your
11:02:37 4 girlfriend ?

11:02:37 5 A. Right .

11:02:38 6 Q. I wanted to ask you about other
11:02:42 7 health issues . Again , I'm not that interested .
11:02:47 8 I believe you mentioned to the investigator
11:02:50 9 that you have diabetes ?

11:02:50 10 A. Type two .

11:02:51 11 Q. What does type two mean ?

11:02:54 12 A. It means you don't know whether
11:02:56 13 you got it or not .

11:02:57 14 Q. When were you diagnosed with type
11:03:00 15 two ?

11:03:01 16 A. Two years ago . After eating a
11:03:02 17 whole bag of jelly beans the day before.

11:03:02 18 Q. What was that ?

11:03:06 19 A. After eating a whole bag of jelly
11:03:10 20 beans the day before .

11:03:11 21 Q. I'll remember not to do that . Are
11:03:19 22 you -- do you take insulin ?

11:03:19 23 A. No.

11:03:29 24 Q. Do you have your blood sugars
11:03:31 25 checked ?

11:03:31 1 A. I do it .

11:03:32 2 Q. How often ?

11:03:33 3 A. Every day , morning and night .

11:03:36 4 Q. And you don't have any daily shots
11:03:39 5 or insulin pump ?

11:03:40 6 A. Huh-uh .

11:03:41 7 Q. When you take it , is it ever too
11:03:50 8 high or too low that you have to do something
11:03:53 9 about it ?

11:03:53 10 A. No .

11:03:55 11 Q. Any kind of medication for
11:03:57 12 diabetes ?

11:03:57 13 A. Met formin .

11:03:58 14 Q. What is it called ?

11:04:00 15 A. Met formin .

11:04:01 16 Q. And do you have a family doctor ?

11:04:13 17 A. Yes .

11:04:14 18 Q. And who's that ?

11:04:15 19 A. Twyman .

11:04:18 20 Q. Do you ever see an
11:04:22 21 endocrinologist ?

11:04:22 22 A. What is that ?

11:04:23 23 Q. That is like somebody that deals
11:04:26 24 with -- let's see . I was just talking to an
11:04:29 25 endocrinologist . If you don't know , we'll just

11:04:33 1 let it go . Okay . I think that's all the
11:04:44 2 questions I have on health . And I believe --

11:04:46 3 MR. SILVER: I think that's all I
11:04:47 4 need to ask you . I want to thank you for taking
11:04:50 5 the trouble to come today . And I'm going to pass
11:04:54 6 the witness . I believe , Mr. Campbell may have
11:04:57 7 some questions .

11:04:58 8 I do want to give you -- we have a
11:05:01 9 witness fee check which we're allowed to give
11:05:04 10 under the rules , so at least something that you
11:05:05 11 get out of here . Go ahead , Mr. Campbell .

11:05:08 12 MR. CAMPBELL: Thanks .

11:05:08 13 DIRECT EXAMINATION

11:05:09 14 BY MR. CAMPBELL:

11:05:09 15 Q. Mr. Davis , I want to follow up on
11:05:11 16 a few questions that Mr. Silver has asked you .
11:05:14 17 He said that the Judge was somewhat interested
11:05:16 18 in the health of the witnesses . I think the
11:05:21 19 Judge is actually interested in -- let me tell
11:05:25 20 you what the Court 's order said . The Court
11:05:27 21 said that right now , no depositions can go
11:05:30 22 forward because the case may or may not
11:05:33 23 continue . The Judge is still making that
11:05:34 24 decision . But he said he would allow some
11:05:37 25 depositions to go forward , but he said that he

11:05:39 1 would only allow them to go forward if there
11:05:43 2 was a person like yourself who's deemed by
11:05:46 3 counsel , which would be Mr. Silver , to be
11:05:49 4 sufficiently elderly or in a state of
11:05:54 5 precarious health such as to make waiting on or
11:05:58 6 until about mid-October to commence their
11:06:01 7 deposition a significant risk .

11:06:03 8 So the Court was saying if somebody
11:06:06 9 was old or if somebody was in a precarious state
11:06:09 10 of health , such that they might not be alive in
11:06:12 11 mid-October or might not be able to sit for a
11:06:15 12 deposition , then these depositions can go forward .
11:06:17 13 So he really is interested in the health of the
11:06:20 14 witnesses just from that perspective . Okay ?

11:06:24 15 A. (Witness nods head up and down.)

11:06:28 16 Q. So I wanted to ask you a few
11:06:30 17 questions just to kind of follow up on
11:06:32 18 Mr. Silver 's questions . I want to make clear
11:06:35 19 before I start that I don't want to be -- I'm
11:06:39 20 not going to pry into the specifics of your
11:06:41 21 health , but I'm interested in the kind of
11:06:43 22 day-to-day and how you're feeling . Like today ,
11:06:46 23 you mentioned that you had to walk a few blocks
11:06:50 24 from the parking lot .

11:06:51 25 A. Yeah .

11:06:51 1 Q. About how far did you have to
11:06:53 2 walk ?

11:06:53 3 A. About three blocks .

11:06:54 4 Q. In the rain ?

11:06:55 5 A. Yeah .

11:06:55 6 Q. Was that difficult for you ?

11:06:55 7 A. No.

11:06:58 8 Q. You don't have any problem
11:07:00 9 walking ?

11:07:00 10 A. No.

11:07:00 11 Q. You don't have any problem being
11:07:04 12 outdoors and doing outdoor activities ?

11:07:07 13 A. No .

11:07:07 14 Q. You mentioned that you've got a
11:07:10 15 pretty good sized garden in your backyard .

11:07:14 16 A. (Witness nods head up and down.)

11:07:14 17 Q. Say yes so the reporter can --

11:07:16 18 A. Oh, yes .

11:07:17 19 Q. You've also got tomatoes that are
11:07:20 20 growing on the fence in your backyard?

11:07:21 21 A. Yes .

11:07:22 22 Q. So it's not difficult for you to
11:07:24 23 be outside in the hot summer sun and tend to
11:07:29 24 that garden ?

11:07:29 25 A. No.

11:07:30 1 Q. Do you weed it?

11:07:31 2 A. Yes .

11:07:31 3 Q. You burn calories when you garden .

11:07:34 4 It's actually exercise . So do you exercise

11:07:38 5 sometimes ?

11:07:38 6 A. Yeah .

11:07:39 7 MR. SILVER: Objection.

11:07:40 8 THE WITNESS: Ride a bike .

11:07:41 9 Q. How far do you ride a bike?

11:07:44 10 A. Two or three days a week .

11:07:46 11 Q. How far do you ride?

11:07:47 12 A. Seven , eight miles .

11:07:48 13 Q. Do you ride during the summertime ?

11:07:50 14 A. Yep .

11:07:51 15 Q. You wouldn't ride in the

11:07:52 16 wintertime ?

11:07:53 17 A. Sometime .

11:07:53 18 Q. Do you ride in the wintertime

11:07:57 19 sometimes ? Did you ride this week ?

11:08:00 20 A. No .

11:08:00 21 Q. Did you ride last week ?

11:08:02 22 A. Yeah .

11:08:02 23 Q. And the week before that ?

11:08:02 24 A. No.

11:08:04 25 Q. Did you ride during the hot

11:08:06 1 weather this summer ?

11:08:07 2 A. Yeah .

11:08:08 3 Q. Feel pretty good to ride that
11:08:10 4 bike ?

11:08:10 5 A. Yes .

11:08:10 6 Q. Feels good when you ride it. I
11:08:13 7 ride it every day. Good for the heart .

11:08:16 8 And I noticed until the very end of
11:08:18 9 your deposition , until you were reading things in
11:08:20 10 front of you , you weren't using glasses , right ?

11:08:20 11 A. No.

11:08:24 12 Q. So you have some readers that you
11:08:26 13 brought with you ?

11:08:26 14 A. Yeah .

11:08:27 15 Q. Do you wear glasses any other
11:08:29 16 times ?

11:08:29 17 A. No.

11:08:30 18 Q. So no difficulty with seeing
11:08:31 19 things a long ways ?

11:08:34 20 MR. SILVER: He was about to answer .

11:08:35 21 THE WITNESS: No .

11:08:35 22 Q. No difficulties seeing things
11:08:38 23 close up ?

11:08:38 24 A. Yes .

11:08:38 25 Q. Some difficulties seeing things

11:08:41 1 close up? So that's why you have the readers ?

11:08:43 2 A. I can tell you the reason why. I
11:08:46 3 had a cataract operation years ago. That's
11:08:51 4 before they was putting the lens in. So I had
11:08:54 5 to wear contacts. Other than that, I'm legally
11:08:58 6 blind if I'm not getting my contacts in.

11:09:00 7 Q. So you're wearing contacts ?

11:09:02 8 A. Yeah.

11:09:02 9 Q. And that's from an issue with your
11:09:06 10 cataract surgery ?

11:09:07 11 A. Yeah.

11:09:08 12 Q. That's not related to your
11:09:10 13 diabetes or anything ?

11:09:11 14 A. No. Actually -- that's going back
11:09:16 15 to exercise -- I split wood and burn wood in
11:09:20 16 the wintertime.

11:09:20 17 Q. Really ? Do you do that by hand ?

11:09:23 18 A. Yeah.

11:09:25 19 Q. You don't use a power splitter ?

11:09:25 20 A. No.

11:09:28 21 Q. Now I got to ask you because I
11:09:30 22 split wood and you're a man of great experience
11:09:33 23 to me. When you're splitting wood -- first of
11:09:35 24 all, how big are the pieces that you start
11:09:37 25 with ?

11:09:38 1 A. It depend . I have some about
11:09:42 2 three or four inches , three or four foot in
11:09:45 3 diameter .

11:09:46 4 Q. So do you have to use like a wedge
11:09:48 5 and maul ?

11:09:49 6 A. Wedge and maul.

11:09:50 7 Q. So you start with when you take
11:09:52 8 the wedge and you pound that in?

11:09:54 9 A. Start on the end , split it off ,
11:09:56 10 and work toward the middle . I do .

11:09:58 11 Q. What kind of wood are you
11:10:01 12 splitting ?

11:10:01 13 A. Oak .

11:10:02 14 Q. Ever split ash ?

11:10:04 15 A. Yeah .

11:10:05 16 Q. That splits pretty easily ?

11:10:07 17 A. Anything cutting wood .

11:10:10 18 Q. Ever split maple ?

11:10:11 19 A. Yeah .

11:10:12 20 Q. That's hard , too . Between maple ,
11:10:14 21 oak , and ash , what do you think is the hardest
11:10:17 22 to split ?

11:10:17 23 A. Probably oak .

11:10:18 24 Q. Work up a sweat when you're
11:10:21 25 swinging that maul?

11:10:22 1 A. Yeah .

11:10:22 2 Q. About how much wood do you cut ?

11:10:25 3 A. Two or three chords .

11:10:29 4 Q. Two or three chords ?

11:10:31 5 A. In the winter .

11:10:32 6 Q. Okay . So now you got to help me

11:10:34 7 out . Do you know the dimension of a chord of

11:10:39 8 wood ?

11:10:39 9 A. Four by six by four , I think .

11:10:43 10 Q. And you're cutting -- you're

11:10:45 11 cutting two to three chords a winter ?

11:10:48 12 A. Yep .

11:10:48 13 Q. Well, I tip my cap to you . That's

11:10:53 14 pretty good . That's really good . And did you

11:10:57 15 do that last winter ?

11:10:58 16 A. Yeah .

11:10:58 17 Q. Plan to do it again in --

11:11:00 18 A. Up until -- I did it half the

11:11:02 19 winter because my truck broke down on me .

11:11:05 20 Q. Plan on doing it again this

11:11:07 21 winter ?

11:11:07 22 A. Yeah .

11:11:07 23 Q. Do you go pick the wood up

11:11:10 24 somewhere ?

11:11:10 25 A. Yeah .

11:11:11 1 Q. So somebody loads the truck for
11:11:13 2 you?

11:11:13 3 A. I load it myself.

11:11:14 4 Q. So you're filling the back of your
11:11:16 5 pickup truck ?

11:11:16 6 A. Yeah .

11:11:17 7 Q. What kind of pick up truck are you
11:11:19 8 driving ?

11:11:19 9 A. It was a Dodge .

11:11:20 10 Q. One ton , two ton ?

11:11:22 11 A. Half ton .

11:11:24 12 Q. So you're just filling the bed ?

11:11:26 13 A. Yeah .

11:11:26 14 Q. Same size truck this year ?

11:11:29 15 A. No. I got to buy one . I ain't
11:11:31 16 got one yet .

11:11:32 17 Q. Are you going to go for a half ton
11:11:34 18 or are you going to get something --

11:11:36 19 A. Half ton .

11:11:37 20 Q. Now , Mr. Silver asked you
11:11:42 21 questions about an investigator who came to
11:11:44 22 visit you . Do you remember , did somebody come
11:11:46 23 to your house ?

11:11:47 24 A. Yeah .

11:11:47 25 Q. Did he tell you what his name was ?

11:11:49 1 A. I have to go to my billfold.

11:11:56 2 Q. You got a business card?

11:11:58 3 A. Yeah. I think I got it here.

11:12:07 4 Q. I'm just going to read into the

11:12:23 5 record that the business card that Mr. Davis

11:12:28 6 gave to me is for a William L. Walsh , W A L S H ,

11:12:33 7 from Ardent, A R D E N T, Investigative

11:12:37 8 Services , LLC . It shows an address of 95

11:12:44 9 Twigkenham Road , T W I G K E N H A M, from

11:12:52 10 Richboro , PA. Phone number, 215-842-0852. And

11:13:00 11 his cell phone is the same area , 431-5834.

11:13:07 12 If you don't mind , I'll give this to

11:13:09 13 Mr. Silver . You probably know where he is , right ?

11:13:12 14 Okay . I'll give it back to you .

11:13:15 15 Okay . Did he tell you who he was

11:13:17 16 when he came to the house ?

11:13:18 17 A. Yeah .

11:13:18 18 Q. What did he tell you?

11:13:20 19 A. Told me he was an investigator and

11:13:24 20 he was trying to find out what people dumped at

11:13:28 21 South Broad way dump .

11:13:29 22 Q. So did he talk to you about what

11:13:31 23 was going on at South Dayton dump ?

11:13:34 24 A. Yeah .

11:13:35 25 Q. Did he ask you anything else ?

11:13:35 1 A. No.

11:13:38 2 Q. Did he ask questions about your
11:13:39 3 health ?

11:13:39 4 A. No.

11:13:40 5 Q. Did he ask you -- he came in your
11:13:42 6 house ?

11:13:42 7 A. Yeah .

11:13:43 8 Q. How far did he come into your
11:13:45 9 house ?

11:13:45 10 A. Living room .

11:13:46 11 Q. No further ?

11:13:46 12 A. No.

11:13:53 13 Q. Didn't ask you if you were a
11:13:55 14 smoker ?

11:13:55 15 A. No.

11:13:55 16 Q. Did he ask you if you were under a
11:13:58 17 doctor 's care ?

11:13:58 18 A. No.

11:13:59 19 Q. Did he ask you whether you had
11:14:03 20 diabetes ?

11:14:03 21 A. Huh-uh .

11:14:04 22 Q. Did he ask you whether your
11:14:08 23 activities were limited in any way other way ?

11:14:10 24 A. No .

11:14:10 25 Q. Did he ask whether you were seeing

11:14:13 1 your doctor regularly ?

11:14:13 2 A. No.

11:14:15 3 Q. Did he ask you whether you had to
11:14:16 4 limit your activity in any way ?

11:14:18 5 A. No .

11:14:18 6 Q. Did he ask you how you were
11:14:20 7 feeling ?

11:14:21 8 A. No, not really .

11:14:22 9 Q. Did he ask you any questions about
11:14:27 10 your general health ?

11:14:28 11 A. No .

11:14:28 12 Q. Did he ask you any questions about
11:14:30 13 whether you had ever had a life -threatening
11:14:33 14 event ?

11:14:33 15 A. No.

11:14:36 16 Q. Now , I'm just curious. You ride
11:14:39 17 your bike three times a week , you walk three
11:14:42 18 blocks to get here , you're out there gardening
11:14:45 19 in the summer heat . How do you describe the
11:14:47 20 state of your health ?

11:14:48 21 A. Pretty good .

11:14:49 22 Q. Pretty good ?

11:14:50 23 A. Yeah .

11:14:51 24 Q. You do chores around the house ?

11:14:54 25 A. Yeah .

11:14:54 1 Q. Do yard work ?

11:14:56 2 A. Yeah .

11:14:56 3 Q. You don't need assistance for any
11:15:00 4 day-to-day activities ?

11:15:01 5 A. No .

11:15:02 6 Q. You don't need help getting
11:15:07 7 dressed ?

11:15:07 8 A. No.

11:15:08 9 Q. You don't need help getting up?

11:15:08 10 A. No.

11:15:11 11 Q. Do you cook for yourself ?

11:15:12 12 A. Yeah .

11:15:12 13 Q. And I think you said you're
11:15:19 14 seventy -four , correct?

11:15:20 15 A. Yeah .

11:15:21 16 Q. Well, I don't know about you , you
11:15:27 17 know , I'm fifty -five , and I know I'm not
11:15:31 18 sixteen anymore , but I still think that . What
11:15:34 19 about you , do you feel like an old man?

11:15:36 20 A. Every once in a while .

11:15:37 21 Q. That's pretty good if it's only
11:15:40 22 once in a while .

11:15:44 23 You had mentioned your doctor 's name .
11:15:46 24 How do you spell his last name again ?

11:15:48 25 A. Twyman . T W Y M A N.

11:15:52 1 Q. And I think you said you see him
11:15:55 2 on a regular basis ?

11:15:57 3 A. I was going to him every three
11:15:59 4 months . He kicked it up to every six months .

11:16:02 5 Q. So did he tell you why he was
11:16:04 6 going from three months to six months ?

11:16:06 7 A. Because there wasn't nothing wrong
11:16:07 8 with me . Everything -- every test he ran came
11:16:10 9 back good .

11:16:11 10 Q. So I want to circle back . When
11:16:17 11 Mr. Walsh came to your house , he never asked
11:16:20 12 you any questions about your health ?

11:16:22 13 A. No. Not that I remember .

11:16:23 14 Q. He wasn't very thorough , was he ?

11:16:25 15 MR. SILVER: Objection.

11:16:26 16 THE WITNESS: I don't know . He
11:16:37 17 showed me a map .

11:16:39 18 MR. SILVER: Uh-huh .

11:16:46 19 MR. CAMPBELL: What I'd like to do is
11:16:48 20 check my notes and some questions that Mr. Silver
11:16:52 21 asked you . Can we take about five minutes ?

11:16:55 22 MR. SILVER: No problem .

11:16:56 23 (Thereupon, a break was had.)

11:20:44 24 MR. CAMPBELL: Mr. Davis , I don't
11:20:46 25 have any more questions at this time . I

11:20:49 1 appreciate your time . I appreciate you coming
11:20:50 2 down here .

11:20:52 3 THE WITNESS: You're welcome .

11:20:53 4 MR. SILVER: Is anyone --

11:20:57 5 MS. SMARDA: No questions on behalf
11:20:58 6 of Cox Media .

11:21:00 7 MR. SILVER: Anyone on the phone have
11:21:03 8 any questions for Mr. Davis ?

11:21:05 9 MR. WINELAND: No questions on behalf
11:21:07 10 of the Sherwin -Williams Company .

11:21:10 11 MR. HARBECK: No questions on behalf
11:21:13 12 of Waste Management of Ohio .

11:21:16 13 MS. WRIGHT: No questions on behalf
11:21:18 14 of Pharmacia, LLC .

11:21:20 15 MR. THUMANN: No questions from
11:21:22 16 Franklin Iron & Metal Corporation .

11:21:27 17 MR. SILVER: I think that's everyone
11:21:28 18 on the phone . Mr. Davis , I had a couple of very
11:21:32 19 brief questions .

11:21:32 20 RECROSS-EXAMINATION

11:21:32 21 BY MR. SILVER:

11:21:32 22 Q. When Mr. Wal -- it's Mr. Walsh ,
11:21:40 23 not Welsh . Do you recall how long Mr. Walsh 's
11:21:44 24 first visit to you was ?

11:21:45 25 A. Probably about six months ago .

11:21:51 1 Q. Uh-huh . Could it have been as
11:21:53 2 long ago as 2012 ? We're in what , September ,
11:21:59 3 2013 now .

11:22:07 4 A. It might have . I can't --

11:22:10 5 Q. I didn't mean to interrupt you .
11:22:13 6 And did he pay you a second visit more
11:22:16 7 recently ?

11:22:17 8 A. Yeah , a couple of weeks ago .

11:22:20 9 Q. And did he make a phone call to
11:22:22 10 you before that ?

11:22:23 11 A. He made a phone call last week .

11:22:25 12 Q. And even -- but even before you
11:22:29 13 remember a phone call , say , a month ago , two
11:22:33 14 months ago ?

11:22:33 15 A. Probably . He called me two or
11:22:35 16 three time .

11:22:36 17 Q. And might he have asked you about
11:22:37 18 your health on one of those calls ?

11:22:37 19 A. No.

11:22:40 20 Q. You don't remember any questions
11:22:41 21 about your health ?

11:22:41 22 A. No.

11:22:42 23 Q. Are you sure about that ?

11:22:43 24 A. Yeah .

11:22:44 25 Q. Any questions about how did -- how

11:22:47 1 did I learn that you had diabetes ?

11:22:50 2 A. I told him sitting on the front
11:22:54 3 porch .

11:22:54 4 Q. Oh, you told him about your
11:22:57 5 diabetes ?

11:22:57 6 A. Yeah .

11:22:58 7 Q. And you mentioned you see
11:22:59 8 a Dr. Twyman . Do you see any other specialists
11:23:03 9 from time to time ?

11:23:04 10 A. Dr. Pratt , heart doctor .

11:23:06 11 Q. What's his name ?

11:23:08 12 A. Pratt.

11:23:08 13 Q. How do you spell Pratt ?

11:23:11 14 A. P R A T T.

11:23:13 15 Q. Is he right here in Dayton ?

11:23:17 16 A. Yeah .

11:23:18 17 Q. Do you know his first name by any
11:23:20 18 chance ?

11:23:20 19 A. Raymond .

11:23:21 20 Q. And he's a -- they call him a
11:23:25 21 cardiologist ?

11:23:26 22 A. Yeah .

11:23:26 23 Q. And he checks your heart now and
11:23:28 24 again ?

11:23:28 25 A. Yeah .

11:23:29 1 Q. How does -- how often do you see
11:23:32 2 Dr. Pratt ?

11:23:32 3 A. Every six months .

11:23:34 4 Q. Your ticker is doing okay , I hope ?

11:23:41 5 A. Yeah .

11:23:42 6 Q. And did Dr. Twyman ask you to go
11:23:44 7 see Dr. Pratt at some point ?

11:23:46 8 A. No . I went to see Dr. Pratt back
11:23:51 9 in '88 , '87 .

11:23:53 10 Q. Why did you do that ?

11:23:55 11 A. Because I was getting tired all
11:23:56 12 the time .

11:23:56 13 Q. And you've been seeing him every
11:23:59 14 six months since then ?

11:24:00 15 A. Yep .

11:24:01 16 Q. Does he ever do a test where he
11:24:05 17 puts those leads on you to check you ? Does he
11:24:07 18 ever do that when you come to see him ?

11:24:09 19 A. Yeah .

11:24:10 20 Q. EKG is it called ?

11:24:12 21 A. Yep .

11:24:12 22 Q. Any other specialists that you
11:24:23 23 see ?

11:24:23 24 A. No .

11:24:24 25 Q. So , really , in terms of doctors ,

11:24:25 1 you see Twyman and Pratt . What about for
11:24:29 2 diabetes ?

11:24:29 3 A. No .

11:24:30 4 Q. That would be Twyman ?

11:24:31 5 A. Yep .

11:24:32 6 MR. SILVER: That's all my questions .
11:24:33 7 Are you good , Drew ?

11:24:34 8 MR. CAMPBELL: I'm good . Thanks .

11:24:36 9 MR. SILVER: Thank you very much for
11:24:37 10 coming . You were a big help to us so we
11:24:41 11 appreciate it . I hope you have a good day . I'm
11:24:44 12 also a bicyclist by the way . I love it . All
11:24:49 13 right y. Thanks very much .

14 (Thereupon, an off-the-record
15 discussion was had.)

16 (Thereupon, signature was not
17 waived.)

18 (Thereupon, the deposition was
11:26:37 19 concluded at 11:24 a.m.)

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1 I, JOHN W. DAVIS, do hereby certify that
2 the foregoing is a true and accurate transcription
3 of my testimony.

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11:26:38

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Dated

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1 STATE OF OHIO)

2 COUNTY OF MONTGOMERY) SS: CERTIFICATE

3 I, Michelle A. Elam, a Notary

4 Public within and for the State of Ohio, duly
5 commissioned and qualified,

6 DO HEREBY CERTIFY that the
7 above-named JOHN W. DAVIS, was by me first duly
8 sworn to testify the truth, the whole truth and
9 nothing but the truth.

10 Said testimony was reduced to
11 writing by me stenographically in the presence
12 of the witness and thereafter reduced to
13 typewriting.

14 I FURTHER CERTIFY that I am not a
15 relative or Attorney of either party, in any
16 manner interested in the event of this action,
17 nor am I, or the court reporting firm with which
18 I am affiliated, under a contract as defined in
19 Civil Rule 28(D).

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1 IN WITNESS WHEREOF, I have hereunto set
2 my hand and seal of office at Dayton, Ohio, on
3 this _____ day of _____, 2013.

4
5
6 _____
MICHELLE A. ELAM
7 NOTARY PUBLIC, STATE OF OHIO
My commission expires 5-2-2015
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